

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed December 28, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

I. Claim Rejections - 35 U.S.C. § 103(a)

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden 35 U.S.C. § 103 to establish obviousness by showing objective teachings in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The key to supporting an allegation of obviousness under 35 U.S.C. § 103 is the clear articulation of the reasons why the Examiner believes that claimed invention would have been obvious. See MPEP § 2141. As stated by the Supreme Court, "[r]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR v. Teleflex*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)).

Applicant respectfully submits that the Examiner has not established with clearly articulated reasons that Applicant's claims are obvious in view of the prior art. Applicant discusses those claims in the following.

A. Rejection of Claims 1-3 and 5-34

Claims 1-3 and 5-34 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over a book entitled "The OpenView Framework" ("the OpenView reference") in view of *Russell, et al.* ("Russell," U.S. Pat. No. 5,623,604). Applicant respectfully traverses.

1. Claims 1-3 and 5-7

Independent claim 1 provides as follows:

1. A method for facilitating installation of firmware on a printing device, the method comprising:

transmitting from a computer a notification that firmware is available for installation on a printing device;

receiving with the computer a firmware download request; and

transmitting a firmware file directly to the printing device to enable installation of the firmware on the printing device.

As an initial matter, Applicant notes that the Examiner did not address the limitation "transmitting from a computer a notification that firmware is available for installation on a printing device". Instead, the Examiner provided a brief summary of what the Examiner believes to be disclosed in the OpenView reference. Although the Examiner correctly identified that the OpenView reference mentions firmware downloading, the Examiner did not indicate that the OpenView reference discloses "transmitting from a computer a notification that firmware is available for installation on a printing device". As a further matter, nowhere did the Examiner explain how the

OpenView reference would render such a notification obvious. Accordingly, the Office Action fails to address an explicit limitation of Applicant's claim 1.

Applicant further notes that the Examiner did not address the limitation "receiving with the computer a firmware download request". Instead, the Examiner indicated that Russell discloses downloading a ROM firmware image to an interactive network board provided in a peripheral device. Not explained, however, is how such downloading discloses or suggests receiving a "firmware download request" as is explicitly recited in claim 1.

In view of the above, it is clear that the Examiner has failed to address explicit limitations of claim 1 and therefore has failed to state a prima facie case of obviousness. Applicant therefore respectfully requests that the rejections to claims 1-3 and 5-7 be withdrawn. Applicant further submits that, if the Examiner wishes to maintain the rejection, the Examiner must *clearly articulate how* the OpenView reference or the Russell reference discloses or renders Applicant's explicit limitations obvious. See *KSR v. Teleflex*, 550 U.S. ____ (2007).

2. Claims 8-12

Independent claim 8 provides as follows:

8. A system for facilitating installation of firmware on a printing device, the system comprising:

means for transmitting a notification to a device indicating that new firmware is available for installation on the printing device;

means for receiving a firmware download request; and

means for transmitting a firmware file directly to the printing device.

Regarding claim 8, Applicant submits that the Office Action has failed to state a prima facie case of obviousness by failing to address explicit limitations of the claim. In particular, the Office Action has not identified where either applied reference discloses or suggests "means for transmitting a notification to a device indicating that new firmware is available for installation on the printing device" or "means for receiving a firmware download request". Applicant therefore respectfully submits that the rejections of claims 8-12 should be withdrawn.

3. Claims 13-19

Independent claim 13 provides as follows:

13. A method for facilitating installation of firmware on a printing device, the method comprising:
- a printing device receiving a firmware availability notification; and
 - the printing device providing a related notification to a user.

In the Office Action, it is alleged that Russell discloses a printing device "receiving a firmware availability notification". For support, the Office Action identifies Figure 20 of the Russell reference, which contains a block S2001 labeled "ACTIVATE LAN BROADCAST FOR TARGET NEB". As an initial matter, Applicant notes that the Examiner has not explained how that label comprises a disclosure or a suggestion of a printing device "receiving a firmware availability notification". Applicant therefore submits that the Examiner has also failed to state a prima facie case against claim 13.

As a further matter, Applicant notes that the "broadcast" described in Figure 20 has nothing to do with a printing device "receiving a firmware availability notification". Instead, Russell states that a network administrator activates a DOWNLOADER program to broadcast "a request for identification of all NEB devices having a particular configuration". *Russell*, column 48, lines 56-61. Therefore, Russell's "broadcast" clearly is a request for identification, not a firmware availability notification.

It is also alleged in the Office Action that Russell discloses a printing device "providing a related notification to a user". For support, the Office Action identifies block S2006 of Figure 20 of the Russell reference, which is labeled "NOTIFY OPERATION OF ERROR AND PURGE DRAM." As can be readily appreciated from that phrase, the "notification" identified by the Examiner is actually an error notification and therefore has nothing to do with a notification that firmware is available for downloading.

In view of the above, Applicant respectfully submits that the rejections to claims 13-19 should be withdrawn.

4. Claims 20-24

Independent claim 20 provides as follows:

20. A system for facilitating installation of firmware on a printing device, the system comprising:

means provided on a printing device for receiving a notification from a firmware service that new printing device firmware is available for download; and

means provided on the printing device for providing a related notification to a device user.

Regarding claim 20, Applicant refers the Examiner to the discussion of claim 13 above. As is apparent from that discussion, Russell does not in fact disclose a printing device “receiving a notification from a firmware service that new printing device firmware is available for download” or “providing a related notification to a device user”. Applicant therefore respectfully submits that the rejections of claims 20-24 should be withdrawn.

5. Claims 25-28

Independent claim 25 provides as follows:

25. A computer-readable medium that contains a firmware service, the service comprising:

logic configured to transmit firmware availability notifications directly to printing devices;

logic configured to receive firmware download requests from the printing devices; and

logic configured to transmit firmware files directly to the printing devices.

Regarding claim 25, Applicant refers the Examiner to the discussion of claim 1 above. As indicated in that discussion, the Examiner has failed to address Applicant's limitations regarding transmitting “firmware availability notifications” to a printing device or receiving “firmware download requests” from a printing device. Applicant therefore respectfully submits that the rejections of claims 25-28 should be withdrawn.

6. Claims 29-34

Independent claim 29 provides as follows:

29. A printing device, comprising:
memory including:
 logic configured to directly receive firmware availability
 notifications that are transmitted by a firmware service via a
 network; and
 logic configured to provide related notifications to a user.

Regarding claim 29, Applicant refers the Examiner to the discussion of claim 13 above. As is apparent from that discussion, Russell does not in fact disclose a printing device receiving a firmware availability notification from a firmware service or providing a related notification to a user. Applicant therefore respectfully submits that the rejections of claims 29-34 should be withdrawn.

B. Rejection of Claim 4

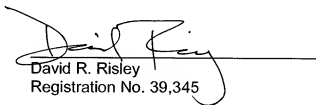
Claim 4 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the *OpenView* reference and *Russell* as applied to claims 1-3 and 5-31, and further in view of *Lomas* (U.S. Pat. No. 6,424,424). Applicant respectfully traverses the rejection.

As identified above, the *OpenView* reference and *Russell* do not teach aspects of Applicant's claims. In that *Lomas* does not remedy the deficiencies of the other two references, Applicant respectfully submits that claim 4 is allowable for at least the same reasons that claim 1 is allowable.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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